REMARKS

Applicants respectfully request reconsideration and allowance in view of the foregoing amendments and the following remarks. By this Amendment, claims 53-55 have been added. Upon entry of the Amendment, claims 1-55 will be pending in the Application.

In the Office Action, Claims 1-52 stand rejected under 35 USC 103(a) as being unpatentable over an Application by Chang, USPTO Publication No. 2002/0171895 ("Chang").

Independent claims 1, 24 and 47 require the collection of a first set of PM data in one of the plurality of PM bins for a PM time interval. In the Office Action, the Examiner notes that Chang does not teach "the aggregating of performance data as bins of information." Nevertheless, the Office Action suggests that the tabulation of round trip time during ranging renders the claims of the present Application obvious (see OA, page 3). Applicants disagree. In Chang, ranging is performed to accommodate the insertion or removal of optical network units into or from the PON without seriously interrupting the operation thereof. Chang at col. 2, lines 44-49 [0010] ("Using the automatic..."). Thus, Chang's measurements of round trip times are of value only immediately after a change in network configuration caused by insertion or deletion of an optical network unit. There would have been no reason for Chang to collect data in bins when network configuration was stable because each instance of data collected would logically have been identical to all other instances of data collected subsequent to a network configuration change. Without such motivation and absent disclosure of bins in Chang, it cannot be said that Chang would have rendered obvious the collection of performance monitor data in one of a plurality of performance monitor bins for a performance monitor time interval as required by independent claims 1, 24 and 47.

The claims of the present Application require a performance monitoring (PM) time interval. Chang does not teach a PM time interval. In the Office Action, the Examiner suggests that a ranging time stamp in a 4 byte field renders the recited PM time interval obvious. Applicants disagree and submit that one skilled in the art would not have considered the ranging time stamp suitable for use as a PM interval time. Chang's ranging time stamp is used for the

9

empirical calculation of a round trip time on an optical network during ranging and is not used to predetermine a PM time interval. Chang at col. 10, lines 32-41 [0077]. Further, it is improbable that the 4 bytes of Chang's ranging time stamp would be capable of measuring a 15 minute round trip time on an optical network (cf., e.g. claim 8, present Application). Therefore, it would not have been obvious to one of ordinary skill in the art to use Chang's 4 byte ranging time stamp as a PM interval timer.

For at least the foregoing reasons, Applicants respectfully submit that the rejections of claims 1-52 be withdrawn.
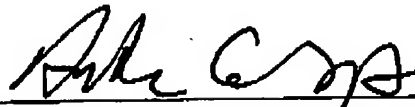
Applicants have added dependent claims 53-55 Each of the added claims require that the PM initialization time is set after the ONT has been ranged.

Based at least upon the foregoing, Applicant submits that the present Application is currently in condition for allowance. Early, favorable action on the merits is solicited. The Examiner is invited to telephone the undersigned if it is believed that a discussion will expedite prosecution of this Application.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,
PILLSBURY WINTHROP SHAW PITTMAN LLP

ANTHONY G. SMYTH, Reg. No. 55,636
Tel. No. 650 233.4802

2475 Hanover Street
Palo Alto, CA 94304-1114
(650) 233-4500